



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Silver Spring, MD 20910

DATE: July 23, 2004

MEMORANDUM FOR: The Record

FROM: F/PR1 - Amy Sloan

SUBJECT: Notes from meeting with AZA re: PD Regs

Attendees: Ann Terbush, Gene Nitta, Amy Sloan (F/PR1)  
Deborah Ben-David (F/GC)  
Kristin Vehrs, Steven Olson (AZA)

Notes:

AZA: General concerns from AZA include legislative authority and where APHIS fits in on certain issues.

PR1: This is the first meeting with feedback from reviewers. FWS and APHIS are currently reviewing the regs. No hearings are planned.

AZA: Is Barbara Kohn our contact at APHIS?

PR1: Yes, Barbara Kohn and Ron DeHaven.

AZA: FWS has been asking AZA re: direct exports from wild captures of sea otters in U.S. waters. Asked if our regs. directly address this issue.

PR1: Our regs do not directly address export from capture from the wild or export from a non-APHIS licensed facility.

AZA: Regarding definitions of custody, holder, temporary custody: where do breeding loans fit in?

PR1: Under transport. The holder still has custody; the ~~animal~~ is on loan to another facility.

MA: **Regarding FR page 35216, section 216.43 (a) (4) (i):** The holder shall allow any designated employee of NOAA, or any person designated by the Office Director to: A- C (refer to proposed regs). AZA has concerns with 1) the wording of "any person designated by the OD" - concerned that "any person" could include an NGO; and 2) A - C, the examination of animals and inspection of facility - has concerns on language regarding examination of animals and questioned for what reasons this would be done.

PR1: Examination of animals and inspection of facility would primarily be an enforcement issue;



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we also may need access to verify inventory, and would possibly examine the animals for tags or permanent marks to verify their identity.

AZA: Would like to help NMFS with language on this, e.g., “ matching brands with animal ID’s.”

AZA: Asked if NMFS does/has actually observed wild captures.

PR1: Yes.

AZA: **FR page 35217, section 216.43 (b) (5) (vii)**: AZA is concerned with the limitation of 6 months in temporary facility and wanted to know if NMFS would be flexible on this.

PR1: Yes. The intention is to cover non-APHIS licensed facilities. If a facility is licensed, it is not as much an issue - if the animals are not on public display but are at an APHIS facility temporarily, we can make a waiver on the 6 months.

AZA: **FR page 35217, section 216.43 (c) (3) and (5)**: AZA asked for clarification on (3) - re: U.S. born progeny and for clarification on (5) - re: re-imports (e.g., if Shedd Aquarium exported a marine mammal to Vancouver Aquarium for a breeding loan, would that be a re-import (and require a permit)?

PR1: Re: U.S. born progeny of imported animals - they are subject to the MMPA as any other U.S. animal. Re: Re-imports - if Shedd exported to Vancouver for a breeding loan and no transfer of custody took place, this would not require an import permit. If an animal is exported and custody is transferred from the U.S. to a foreign facility, it would require a permit to re-import that animal.

AZA: **FR page 35218, section 216.43 (e) (4)**: AZA request clarification on language regarding “holders of captive marine mammals are required to provide an updated MMDS to the Office Director whenever a change in inventory occurs” - wanted to clarify whether that meant a duplication in reporting requirements to NMFS OD and ISIS.

PR1: **FR page 35219, section 216.43 (e) (5)**: Submission address clarifies this. Language is to maintain authority of OD; thus, submission is to OD c/o ISIS.

AZA: Will reporting require more information than what ISIS already gets?

PR1: The information should be ~90% of what is already collected by ISIS. - Gene, please verify.

AZA: AZA is working on developing a new tracking system [notes that ISIS purpose is to maintain the inventory and is too overwhelmed to ~~try~~ to develop the system]; continues to consult w/ISIS; **ISIS** will still be used for inventory but maybe to a lesser extent.

AZA: **FR page 35218, section 216.43 (e) (4)**: Question regarding stillbirths. Did not remember this in the regs before.

PR1: NMFS has been advised to include stillbirths in reporting requirements for statistical purposes and for public relations purposes. It acknowledges a birth, whether alive or dead; it does not include premature abortions.

AZA: **FR page 35219, section 216.43 (f)**: AZA does not know at this time where they will be on this issue. Asked if APHIS is comfortable that they can certify the facility is comparable.

PR1: Yes. They have been doing this in a consistent manner since 1994. The MMC **has** been pushing for international inspections.

End of specific questions and concerns on PD Regs from AZA.

Informal Discussion:

AZA: question re: open water pens

PR1: mostly Navy; swim-with programs want flexibility; could be for emergency release, accidents, facility closure, etc.; also for boat walk training; need to address APHIS' role once the gates open/animals are no longer in pen

AZA: question re: seizures; would NMFS or APHIS do the seizure?

PR1: NMFS has the authority but it could be done in conjunction w/APHIS; **NMFS** would look to contract someone qualified and available to help

AZA: How comfortable is NMFS w/stats that 60% of marine mammal holders/facilities are AZA and/or Alliance members **vs.** 40% non-members? AZA is also trying to work with APHIS to up the standards to cover those facilities who are not members of the M A or Alliance.

PR1: OK with it. Many facilities have only a few animals.

AZA: What is most problematic for NMFS?

PR1: **Exports.**

AZA: What if NMFS got a request to collect a marine mammal and subsequently export it? FWS has come to AZA regarding capturing and exporting otters.

PR1: If it involves a facility that has no ties to the U.S., we would hesitate. In the PD regs, we weren't writing to allow for export permits; rather, trying for consistency in language. It is the intent of Congress to allow for exports.